



M e m o r a n d u m

To: Panel Members Date: September 26, 2001

From: Peter G. DeMauro General Counsel File: J:\LEGAL\01\Career Ladders Panel Memo.doc

Subject: CALIFORNIA CAREER LADDERS TO THE 21ST CENTURY -- DRAFT REGULATION

At the last meeting, the Panel asked staff to draft a regulation regarding California Career Ladders to the 21st Century (Career Ladders). Attached are three draft regulations to be used as a starting point in the discussions regarding this funding category.

The regulations would allow projects under the Career Ladders category to be funded under the Panel's regular funding category. Such projects are similar to job creation training in that trainees are trained and eventually placed in a new job with an increased wage and responsibilities. Currently, the Panel has a regulation which specifies the types of projects that inherently foster job creation. The Panel should consider amending this regulation to include Career Ladders' projects.

Furthermore, Career Ladders' projects are comparable to the upgrade training category, for which the Panel currently has a regulation, because trainees are being trained in skills which will enable each trainee to advance up the career ladder. Given the similarity between Career Ladders and upgrade training, the Panel may want to consider amending the current regulation on upgrade training to address Career Ladders' projects. Under this regulation, Career Ladders' projects will be subject to the Panel's standard statutory and regulatory criteria, with certain exceptions. Additionally, the Panel may also want to consider requiring approval of the proposed project by the appropriate industry organization to ensure that the project will meet the needs and criteria of the industry in relation to career advancement. In cases where there is no industry association, the Panel can require assurances from several employers that the proposed project involves a recognized career ladder in that particular industry.

Additionally, approval of the above regulations would necessitate the repeal of the provisions in the Special Employment Training (SET) regulation relative to Career Ladders.

Attachments

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4414. Job Creation.

- (a) The Employment Training Panel shall consider the following training projects as meeting the statutory requirement to foster job creation, provided that all other requirements are met:
 - (1) New hire;
 - (2) Recently employed (defined as individuals employed for less than 90 days at the start of training, and at the time of hire would have qualified as an eligible new hire trainee);
 - (3) California Career Ladders to the 21st Century Upgrade, ~~if the employer hires an unemployed person to backfill the upgraded trainee's job.~~

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4408. California Career Ladders to the 21st Century Upgrade Training.

- (a) An annual allocation specified in subdivision (e) of Section 10206 of the statute is established to address the upgrade training needs in industries and occupations which provide the trainee with demonstrated career advancement opportunities; the Panel may fund projects developed jointly with the Employment Development Department, under California Career Ladders to the 21st Century, to provide workers in low-wage jobs the skills necessary to advance to higher paying jobs in industries with the potential for career advancement opportunities. The industries in which trainees are employed must have previously demonstrated career paths with a clear career advancement structure, and the participating employer(s) must show a long-term commitment to training. In making a determination for training projects which propose to train or retrain employees in skills for which there is a demonstrable shortage in a field where new employment opportunities will be created, the panel shall review the labor market information available for industries in which upgrade training is likely to encourage hiring of the unemployed on a backfill basis.
- (b) For purposes of Panel funding, projects developed under this category are subject to the provisions of the Panel's enabling legislation regarding job creation. These projects may be funded under the Panel's regular funding category, pursuant to the Panel's standard statutory and regulatory criteria, subject to the exceptions outlined below. Furthermore, each project shall be funded for no more than \$500,000.
- (1) The Panel may waive the eligibility provision of §10201(c) of the Unemployment Insurance Code.
- (2) The Panel may waive the ETP minimum wage requirements, as provided in UI Code Section 10201(f), for frontline workers in projects under this group.
- (3) The Panel may exempt projects in this group from the limitations imposed on Panel funded literacy training under §4420, up to 100 percent of the total vocational skills training hours per trainee.
- (4) The 90 day post-training employment retention period for trainees in this group may be completed with up to two participating eligible employers within 120 days, within the same discrete industry, if there is evidence of job security at the end of the retention period. The Panel may, upon a showing of good cause by the contractor, allow for the employment retention period to be completed with three employers, within the same discrete industry.

~~(c)~~ ~~(b)~~ Projects being proposed under this category shall include information in the following areas:

- (1) the occupational category in which a career pattern of advancement exists that is recognized in the trade or industry;
- (2) ~~the entry level position(s) that will be vacated by the upgraded trainees and for which unemployed individuals will be recruited, hired and trained;~~
- (3) the progressive development of job skills associated with a defined set of work processes or tasks which are delivered sequentially in the course of training and employment;
- (4) the progression of earnings and related benefits;
- (5) ~~an enrollment plan that provides for a new hire training slot for each position vacated by the upgraded trainee; and,~~
- (6) identification of the trainees who will receive ~~upgrade~~ training in order for the panel to make a determination as to the qualifications of the individuals to be trained or retrained in the skills necessary for career advancement in the relevant industry ~~where there is a demonstrated shortage~~. This determination shall include a review of the individual trainee's tenure in the position.

~~(d)~~ ~~(e)~~ Contractor shall provide the Panel with reasonable assurance that each trainee will advance to a new job with higher earnings, in accordance with the progression of earnings provided by Contractor at the beginning of the Agreement, and increased responsibilities within one year after the completion of each trainee's training. Time-in-grade increases that provide for regular salary increases for satisfactory performance within a job classification without increases in skills do not meet the criteria relative to the progression of earnings. Time-in-grade increases cannot be substituted for a progression of earnings as salary advancement occurs without the formal and concurrent development of skills and abilities. Similarly, cost of living allowances, shift differentials, and salary bonus plans awarded for increased production do not constitute a progression in earnings as specified in this section.

~~(e)~~ ~~(d)~~ ~~Reimbursement is earned only when the~~ Each contractor must certify that it will provides a full-time job for at least one ~~unemployed person for each person retrained in the upgraded position~~ vacancy resulting from a trainee's career advancement.

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4409. Special Employment Training Projects.

- (a) The Panel may allocate up to ten (10) percent of the annually available training funds for Special Employment Training (SET) projects to improve the skills and employment security of frontline workers, as defined in §4400(ee), who earn at least the state average hourly wage, except as provided in subparagraphs (a)(4), and (5), ~~and (6)~~, and paragraph (b) of this section. These projects are not subject to the out-of-state competition requirement specified in §4416. Nor are participants in these projects subject to the eligibility provision of §10201(c) of the Unemployment Insurance (UI) Code. The Panel shall annually identify industries and occupations that are priorities for funding under this SET category, as
- The minimum standards for
- consideration of proposals to be funded are:

- (1) Each project shall be funded for no more than \$500,000. The Panel may waive the cap for individual SET projects at any time, upon a showing of good cause by the contractor.
- (2) A contractor shall be funded with SET funds only once. The Panel, upon a showing of good cause by the contractor, may fund the same SET contractor for a subsequent project.
- (3) Each project must result in full-time employment, as defined by §4400(h), for all who successfully complete training, except those receiving small business skills training as provided under paragraph (b) of this section.
- (4) The Panel may fund up to 20 percent of funds annually available for SET projects for frontline workers who earn less than the state average hourly wage, but who earn at least the ETP minimum wage, as provided in UI Code Section 10201(f), and who have multiple barriers which prevent them from fully participating in the labor force as a result of physical disability, lack of communication skills or literacy, or similar factors. In such cases, the applicant must demonstrate how the training will help the trainees overcome the barriers identified.

(A) The Panel may exempt projects in this group from the limitations imposed on Panel funded literacy training under §4420, up to 100 percent of the total vocational skills training hours per trainee.

- ~~(5) The Panel may fund projects developed jointly with the Employment Development Department, under California Career Ladders to the 21st Century, to provide workers in low-wage jobs~~

~~the skills necessary to advance to higher paying jobs in industries with the potential for career advancement opportunities. The industries in which trainees are employed must have previously demonstrated career paths with a clear career advancement structure, and the participating employer(s) must show a long-term commitment to training.~~

~~(A) The Panel may waive the ETP minimum wage requirements, as provided in UI Code Section 10201(f), for frontline workers in projects under this group.~~

~~(B) The Panel may exempt projects in this group from the limitations imposed on Panel funded literacy training under §4420, up to 100 percent of the total vocational skills training hours per trainee.~~

~~(C) The 90 day post-training employment retention period for trainees in this group may be completed with up to two participating eligible employers within 120 days, within the same discrete industry, if there is evidence of job security at the end of the retention period. The Panel may, upon a showing of good cause by the contractor, allow for the employment retention period to be completed with three employers, within the same discrete industry.~~

(56) The Panel may waive the ETP minimum wage requirements, as provided in UI Code Section 10201(f), for frontline workers in high unemployment areas of the State, as defined in §4400(ii).

(A) The 90 day post-training employment retention period for trainees in this group may be completed with up to two participating eligible employers within 120 days, if there is evidence of job security at the end of the retention period. The Panel may, upon a showing of good cause by the contractor, allow for the employment retention period to be completed with three employers.

(b) The Panel may allocate SET funds for small business skills training to small business owners who meet the definition of frontline workers under §4400(ee)(4), under the following conditions:

(1) For the purposes of this subsection the following definitions of "owner" and "employee" shall apply:

(A) The owner must be registered as a California employer with the Employment Development Department and must be currently subject to the unemployment insurance (UI) tax on behalf of the

business' employees. An "owner" is defined as: one or more individuals each having all or a substantial (at least 20%) financial investment in a business; and, who is (are) directly involved full-time in the day-to-day operation of the business.

(B) The spouse of an "owner" also qualifies as an "owner" if the spouse is directly involved in the day-to-day operation of the business.

(C) An "employee" is an individual receiving monetary compensation while working full-time for a business, and the business is paying into the Unemployment Insurance (UI) fund (subject to the Employment Training Tax) on behalf of the employee for at least six months prior to the first day of training for the owner. For purposes of this subsection an individual cannot be leased or assigned from a temporary employment agency or other provider as an employee.

(D) The owner shall not be counted as an employee of the business to meet the number of full-time employees requirement.

(2) Wages after training are not relevant to small business owner training, since owners typically do not receive an hourly wage.

(3) Training must be in business management and/or other related skills needed to operate a successful business, including but not limited to developing a business and/or marketing plan, tax requirements, and permit and licensing procedures.

(4) In addition to other requirements of the contract, to qualify for reimbursement, an owner must certify at completion of the training that he/she employs at least the same number of employees on the 91st day after the completion of the owner's training as were employed at the start of the owner's training.

(c) A training proposal developed and approved under this section shall meet all Panel requirements not otherwise modified or exempted by this section.